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10 **IN THE UNITED STATES DISTRICT COURT**

11 **FOR THE DISTRICT OF ALASKA AT ANCHORAGE**

13 ENOCH ADAMS, JR., LEROY ADAMS,  
 14 ANDREW KOENIG, JERRY NORTON  
 DAVID SWAN and JOSEPH SWAN,

Case No. A04-49 (JWS)

15 Plaintiffs,

PLAINTIFFS' STATUS  
 REPORT AND REQUEST FOR  
 PRE-TRIAL CONFERENCE

16 v.

17 TECK COMINCO ALASKA INCORPORATED

18 Defendant.

19 NANA REGIONAL CORPORATION and  
 20 NORTHWEST ARCTIC BOROUGH,

21 Intervenors-Defendants.

23 Plaintiffs file this Status Report and Request for Pre-Trial Conference, pursuant to the  
 24 Court's Order of May 8, 2007 (docket 151) and Local Rule 16.1(d). After three months of  
 25 mediation, including three days of in-person meetings in Kotzebue following a tour of the mine  
 26 site and the Village of Kivalina in April, plaintiffs are not sanguine about the possibility of  
 27

1 settlement in this case and wish to proceed to trial at the earliest possible opportunity. Given the  
2 lack of progress in settlement negotiations over the past two months, plaintiffs feels any further  
3 delay in setting a trial date would not be productive. (Plaintiffs will, of course, remain ready to  
4 continue settlement discussions while preparing for trial.)

5 Plaintiffs request, pursuant to Local Rule 16.1(d), a telephonic pre-trial conference with  
6 the Court and all parties as soon after July 2, 2007 as is convenient to the Court. At this  
7 conference the parties will be able to determine if all remaining legal issues are resolved before  
8 trial; plaintiffs expect Teck Cominco to continue to comply with its ongoing duty to supplement  
9 discovery under Rule 26, particularly with the discharge monitoring reports and internal  
10 compliance memoranda for the 2007 discharge season. Plaintiffs also request that following the  
11 pre-trial conference, the Court set a trial date at the earliest possible time in the Court's calendar.  
12 Without the supplemental discovery disclosures from Teck Cominco, plaintiffs are today hesitant  
13 to move under Local Rule 40.3(a) for a trial date, but hopefully any remaining discovery issues  
14 can be resolved at the pre-trial conference. We look forward to the Court's guidance.

Respectfully submitted,

## CENTER ON RACE, POVERTY & THE ENVIRONMENT

/S/ Luke Cole

Luke Cole

Attorney for Plaintiffs

1 CERTIFICATION OF SERVICE

2 I certify that on the 20<sup>th</sup> day of June 2007, a true and correct copy of the Plaintiffs' Status Report and Request for  
3 Pre-trial Conference were served via electronic mail on the following counsel of record:

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10 /s/ Luke Cole

11 Luke W. Cole

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